

Let ***YOUR*** voice be heard (See page 6)

The Kentucky

# CITIZEN

STRENGTHENING FAMILIES AND THE VALUES THAT MAKE FAMILIES STRONG

Vol. XXII No. 2

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## The 2013 Assembly moves forward

*Below are listed some of the bills that impact families and the values families regard important. Let your voice be heard! (See page 6)*

The General Assembly session is a short one this year so if your favorite bill(s) is going to pass, it (they) must move swiftly. The Session began on Jan. 8 with a four-day organizational week where decisions as to who would lead the Senate and House of Representative Chambers and their respective caucuses were made by all 138 legislators, including the 20 rookie legislators for this year. Legislators returned on Feb. 7 to begin a 24-day working period through March 8, which will be followed by the final two-day veto override stint on March 25 and 26.

Many large issues need to be resolved by the Assembly this year, including redistricting that was botched last year, addressing the massive unfunded pension liability, and tax reform. Regardless of the “big ticket” items that capture most of the media attention, other bills are also important. Be sure to share your perspective with your legislators you would be surprised as to how much influence you have. And, of course, if you do not call, you will have absolutely no influence. (See page 6)

Peruse the following and share the wisdom you have:

### HB 279 Religious Freedom Act

*sponsor Rep. Bob Damron*



**History:** Religious freedom as established in the First Amendment has been the long understood intent of America’s Founding Fathers. The Federal Supreme Court affirmed that guarantee in the early 20<sup>th</sup> century, establishing “strict scrutiny” (i.e. “compelling interest/least restrictive means”) as the legal test government had to pass before it could restrict someone’s religious freedom.

In 1990 the U.S. Supreme Court changed direction by establishing a “rational basis” test, meaning government only needed “a reason” to restrict religious freedom. Congress responded by overwhelmingly passing the Religious Freedom Restoration Act (RFRA) requiring federal courts to once again use the “compelling interest/least restrictive means” test.

It was then up to the states to re-establish/reaffirm the “compelling interest/least restrictive means” standard for state and local courts. Twenty-six states have acted in some measure to re-establish this test. The Kentucky legislature has not.

Therefore, in its Oct. 25, 2012 decision, *Zook et. al. and Gingerich et. al. vs. Commonwealth*, the Kentucky Supreme Court made the decision for Kentucky, choosing the “rational basis” test for Commonwealth courts. In these cases, nine Amish men, after being fined and imprisoned for not displaying the requisite orange triangles on their vehicles, appealed to the court to allow an alternate method of identifying their vehicles

**Supporters say:** “We need to do on the state level what Congress did on the federal level. The state should bear the burden of proof **BEFORE** it infringes on anyone’s religious freedom as opposed to the citizen having to prove his rights have been violated by government. The state should be restrained.”

which would ensure public safety without violating their sincerely held religious beliefs.

Writing the majority opinion, Justice Mary Noble acknowledged sections 1 and 5 of the Kentucky Constitution (“All men...have certain inherent and inalienable rights . . . [t]he right of worshipping God according to the dictates of their consciences.” and “No human authority shall, in any case whatever, control or interfere with the rights of conscience.”) However, Noble concluded that, “the statute is presumed constitutional unless there is no rational basis for it,” thus upholding the decision to restrict religious freedom.

In the dissenting opinion Justice Will T. Scott explained, “Employing a rational basis standard renders inconsequential Kentucky’s free exercise guarantee in that virtually any asserted government interest could justify laws . . . substantially burdening individuals’ religious liberty.”

The Kentucky Supreme Court’s decision selected “rational basis” as the test for religious freedom cases. It is now up to the Kentucky legislature **TO ACT** to ensure religious freedom by re-establishing the “compelling interest/least restrictive means” test for state and local courts in the Commonwealth, or **NOT TO ACT** to allow the “rational basis” standard to preside.

**Opponents say:** “Though no opponents have arisen in this Session, some would likely advocate that government knows what is best and therefore should be the sole or primary arbiter of what is legitimate religious freedom and what is not.”

**Status (at press time):** The bill was filed in the House on Feb. 7 and was placed in the House Judiciary Committee on Feb. 11. The bill enjoys 21 sponsors to date and though the bill has never been considered in the House, the primary bill sponsor, Rep. Bob Damron, is optimistic for its passage.

# Other key bills in the 2013 Assembly . . .

## SB 4 Face-to-Face Consultation *sponsor Sen. Jimmy Higdon*

**History:** Fifteen years ago an effort began to require abortionists to meet in person with their patients at least one time before performing an abortion. The original sponsor in 1998, Sen. Katie Stine, then a House member, maintains that before the original bill passed, there was an in-depth discussion regarding whether the legislation requiring a meeting with the abortionist prior to the procedure would inconvenience or cause a greater burden for women. A resounding “no” was the conclusion after the bill easily cleared both the House and Senate in 1998.

While abortionists chafed at the new law, Stine and other pro-life advocates ex-

**Supporters say:** “All other medical procedures have this kind of face-to-face interaction with the medical personnel and, given the deep remorse that many women feel even years after an abortion, ask the question, “Why not with abortion?”

**Status (at press time):** The bill was filed in the Senate on Feb. 5, passed favorably from the Committee on Veterans, Military Affairs, & Public Protection on Feb. 7, and then passed the full Senate on Feb. 8 with a bipartisan vote of 31-4. It was received in the House on Feb. 8 and placed in the House Health and Welfare Committee on Feb. 11. This is the committee in which most pro-life bills have been placed to die for the last eight Sessions of the General Assembly. SB 4 has 17 sponsors.

pected the Board of Medical Licensure to implement the law as intended. “We passed it with the understanding that the Board would enforce it, but they have failed to do that,” Stine said. “If they had, there would be no need for additional legislation.”

Last year the bill passed the Senate with a bipartisan vote of 32-5, but like all pro-life legislation in the last eight years, the House Leadership was unwilling to allow it to come to the House floor for a vote of the full House. Stine expects, if given a hearing on the House floor, it would pass there overwhelmingly as well.

**Opponents say:** “This is just an attempt to reduce the number of abortions by hoping that the female patient might find out something different than she already has considered. Abortion is a tough decision; women don’t need any more information.”



## SB 5 The Ultrasound Bill *sponsor Sen. Paul Hornback*

**History:** Last year’s Ultrasound Bill, an attempt to provide an abortion-minded woman a glimpse into her womb, easily cleared the State Senate 32-4. This bill, essentially the same as last year’s, requires the abortionist to give women in their care an opportunity to see the ultrasound picture of their unborn child.

Kentucky has only two functioning abortion clinics, one in Louisville and one in Lexington. Both are owned and operated by the same physicians who advertise on their clinic website that they do an ultrasound on each patient. That means that this bill would

**Supporters say:** “Why does the Pro-Choice side always argue that women can make up their own minds but refuse to allow them to see all the information that is available? If information such as what she would see in her ultrasound would change her mind, why not let her see it? Are you for ‘choice’ or not?”

**Status (at press time):** The bill was filed in the Senate on Feb. 5, passed favorably from the Committee on Veterans, Military Affairs, & Public Protection on Feb. 7, and then passed the full Senate on Feb. 8 with a bipartisan vote of 31-4. It was received in the House on Feb. 8 and, like the Face-To-Face Consultation Bill above (SB 4), it was placed in the House Health and Welfare Committee on Feb. 11. This committee is known as “The Graveyard Committee” for pro-life legislation.

simply require the physician to offer to “turn the ultrasound screen around” so that the patient could see what he sees. Contrary to what some have claimed, there would be no increased cost since the ultrasound is already being done and is already included in the cost.

Studies indicate that many women change their minds and leave the abortion clinic after seeing their ultrasound, recognizing that there is a developing baby – or baby-like form – within the womb, not a “blob of tissue.”

**Opponents say:** “Pro-lifers are just trying to lower the number of abortions by having the women look at the image. Women are intelligent and once they have made up their mind, there is no reason to badger them with other unsolicited information.”



### Points of interest

“**HB**” and “**SB**” stand for “House Bill” and “Senate Bill” respectively. This moniker describes the Chamber of origin of each bill. Though all bills must pass **BOTH** Chambers to become law, each retains its bill number and Chamber designation all the way through the process. “SB 5” will remain “SB 5” in both Chambers until it becomes law, or it fails.

**PRIMARY SPONSORS** are the names that are listed by the bill designation above. There are likely other “co-sponsors” on each. In fact, HB 279 (See page 1) has 42, SB 4 (Above) has 17, and SB 5 (Also above) has 8. Note that some bills only have their primary sponsor.

### Calendar for the 2013 General Assembly

January 8-11  
February 5  
February 8  
February 15  
February 19  
March 8 & 11  
March 12-22  
March 25-26

Four-day Organization period  
Session re-convenes for legislation  
Last day for bill requests  
Last day for new Senate bills  
Last day for new House bills  
Concurrence  
Governor’s veto period (10 days)  
Veto override period and *Sine Die*

## SB 3 Christian Health Ministries sponsor Sen. Tom Buford



**History:** Christian Care Medishare (CCM) is a religious ministry and one of several national organizations that allow Christians to share health care costs. The Kentucky Department of Insurance took them to court during the Patton administration, claiming they were operating like an insurance company and should abide by insurance regula-

**Supporters say:** *“The state is leaving hundreds of people, some of whom have pre-existing conditions, without a means to pay. Medishare is not insurance, as the Insurance Department itself told Kentuckians on its website. It simply allows Christians to ‘bear one another’s burdens.’”*

**Status (at press time):** The bill was filed in the Senate on Feb. 7 and was placed in the Senate Banking and Insurance Committee. It is anticipated that it will be approved by the committee and by the full Senate by Feb. 15. Its prospects in the House Banking and Insurance Committee and the full House are uncertain.

tions. CCM won at the trial court level, but, after wending its way through the legal system, the Kentucky Supreme Court ruled again them last year. At issue, ultimately, is whether Kentucky citizens can provide for their own health care coverage.

**Opponents say:** *“If Christian Care Medishare is going to operate like an insurance company, it should operate under the same rules as other insurance companies, which means it cannot exclude people who disagree with its religious beliefs.”*

## HB 3 Human Trafficking sponsor Rep. Sannie Overly



**History:** House Bill 3 is a bill that would strengthen the laws against human trafficking in a number of ways, including by elevating the needs of the victim, by increasing the penalties for human trafficking, and by streamlining the administration by agencies that must get involved when a trafficking case emerges. In the 2012 General Assembly session, a bill that was essentially the same as this bill passed the House with a vote of

**Supporters say:** *“There are 27 million victims of human trafficking worldwide for purposes of sexual exploitation and forced labor– 91 cases were discovered in Kentucky over the last five years. It is time to take action.”*

**Status (at press time):** The bill was filed in the House on Feb. 7 and was placed in the House Judiciary Committee on Feb. 11. Given its success last year and the large number of cosponsors this year, the bill is likely to move swiftly through the House and be given serious consideration in Senate deliberations.

99-0, but died in a Senate committee because of a lack of legal clarity on some defining aspects. Observers believe that this year’s effort will likely pass the House overwhelmingly and will have the glitches ironed out in such a way that the Senate committee and full Senate will be able to support the measure.

**Opponents say:** *“There is no organized opposition to this bill. The only concern that has been raised dealt with the lack of clarity in some areas of last year’s bill.”*

## HB 178 Pay-Day Lending Limits sponsor Rep. Darryl Owens



**History:** This bill calls for a 36% annual interest rate cap on Pay-Day loans across Kentucky. The 36% figure was arrived at by virtue of the federal government’s interest rate cap for those who do short-term loans for military personnel. Those pushing the regulation are a unique coalition of both liberals and conservatives. The liberals, in general, are concerned for how the poor are targeted by the lending industry. Many of

**Supporters say:** *“Currently, ‘Pay-Day’ lending is a calculated effort to prey on the poor with heavy interest rates, fees and penalties. A 36% interest cap is enough. To allow more is making ‘loan-sharking’ legal in Kentucky.”*

**Status (at press time):** The bill was filed in the House on Feb. 5 and was placed in the House Banking and Insurance Committee on Feb. 6. At this point, there has been no assurance by Committee Chairman Rep. Jeff Greer that the bill will be heard. The last time the bill was heard in this committee it failed to pass.

the conservatives are motivated similarly, but they focus on the religious commandment *NOT* to charge usury. Together, they create a coalition that is not often seen in Frankfort. On the other hand, the Pay-Day lenders literally make millions of dollars annually and they make generous contributions to legislators on both sides of the aisle. That limits legislative initiative.

**Opponents say:** *“We live in a free society with free markets. Let’s let the lending industry follow the free market in the interest rate realm to serve this particular part of our culture.”*

## Expanded Gambling No serious bill has been filed as yet, BUT . . .



**History:** Gov. Beshear has been pushing gambling since his first campaign in 2007. It is expected that he will reverse his most recent unusual silence on the issue as soon as

the unfunded pension debacle is elevated in the news. It is time to start telling Senators and Representatives that an expanded gambling rip-off of the people is not an option.

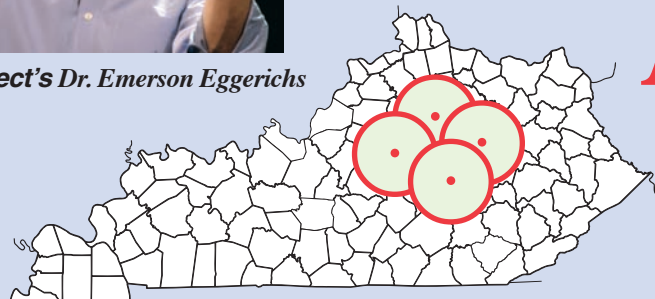
**Go to page 6 to see how you can make a difference with YOUR perspective. Act with faith and faithfulness!**



Love & Respect's Dr. Emerson Eggerichs



Love & Respect's Sarah Eggerichs



# The Kentucky Marriage

# Movement

Various regional events listed below

## Nicholasville, March 8-9

The Art of Marriage video conference - FamilyLife  
Catalyst Christian Church  
4000 Park Central Avenue, Nicholasville, KY 40356

## Versailles, March 15-16

The Art of Marriage video conference - FamilyLife  
Woodford Community Christian Church  
420 Hope Lane, Versailles, KY 40383

## Lexington, March 22-23

Love and Respect video conference - The Eggerichs  
Broadway Christian Church  
187 North Broadway, Lexington, KY 40507

## Lexington, May 3-4

Love and Respect video conference - The Eggerichs  
Lexington First Assembly of God  
2780 Clays Mill Road, Lexington, KY 40503

For more or to register, call **(859)255-5400** or go to [www.kentuckymarriage.org](http://www.kentuckymarriage.org)

## We asked. You answered: Marriage Counselors!

**Diana Caillouet** Bowling Green  
270-782-6121

**Mikki Taylor** Henderson  
Walking on Water Counseling Services  
270-826-4952

**Jane Hill** Henderson  
Lighthouse Counseling Services  
270-826-8761

**Joseph Williams** Mayfield  
270-247-5667

**David Fletcher** Oak Grove  
Grace Ministries 270-640-5808

**Frank/Martha Stevenson** Madisonville  
Transformation Ministries 270-821-6332

**Roger Thompson** Paducah  
270-442-5738

**Richard Meyer** Florence  
859-371-2800

**Marydora Conley** Jeffersonton  
502-500-1553

**James Ross** Lexington  
Anchor Counseling 859-278-3290

**Dan Pugel** Lexington  
Journey Counseling 859-858-0104

**Paul Schmidt** Lexington  
My New Life 502-633-2860

**Barbara Waldner** Lexington  
859-223-9345

**James Kassel** Louisville  
502-339-4511

**William Colwick** Louisville (1)  
502-339-4511

**Joseph Arnold** Louisville  
502-384-2844

**William Colwick** Louisville (2)  
502-384-2844

**John Lapp** Taylorsville  
502-477-2818

**David Lanier** Winchester  
859-744-8562

**Charlotte Melcher** Lexington  
Focus on Relationships 859-223-1141

**Mark Labonde** Lexington  
859-913-1717

**Don Sizemore** Lexington  
Don Sizemore & Assoc. 859-806-4266

**Stephen Johnson** Nicholasville  
**Heather Butler** **Cathleen Donahue**  
Stephen Johnson and Assoc. 859-219-9800

**Leonard Lester** Corbin  
606-546-4135

If you know of a marriage counselor, help us add to this list. Call (859)255-5400

# Prof. Grudem challenges Kentucky churchmen

*His timely “Christian citizenship” message stirred pastors and lay attendees alike.*

The Family Foundation hosted Dr. Wayne Grudem in a speaking tour focused on his new book, *Politics According to the Bible*. Grudem spoke in four locations during his three-day, Jan. 14 through Jan. 16, visit: in Lexington twice, in Louisville at Southern Seminary, and in Princeton.

Grudem is Research Professor of Theology and Biblical Studies at Phoenix Seminary in Phoenix, Arizona, and is best known by theologians and seminary students for his textbook, *Systematic Theology*.

“Our religious freedom is being nibbled away. Will you sit on the sidelines or get in the game?” Grudem asked the crowds that included pastors and laypeople. “We have a Biblical responsibility to influence government for good.”

## Five wrong views

Grudem believes there are five prevalent wrong views of Christianity and government:

### 1. **Government should compel religion.**

Grudem noted that this is the view held in Saudi Arabia and other Muslim countries, and “unfortunately there were Christians who held this view in the past. They failed to understand that genuine faith can’t be forced.” As an example, he referenced a parent, who can make a child go to church, but cannot force the child to trust in Christ. “That is a personal, voluntary decision.”

### 2. **Government should exclude religion.**

This is the view which advocates that crosses, nativity scenes and the Ten Commandments cannot be displayed on government property, and that high school valedictorians cannot quote the Bible or talk about Jesus.

“That view distorts the meaning of the U.S. Constitution, which forbids the free exercise thereof (of religion).”

Grudem said some are “taking this valuable freedom and trying to change it to freedom *from* religion.”

**3. All government is evil and Satanic and Christians should stay out.** Grudem said this view is contrary to many Biblical passages, such as Romans 13:4 and Daniel 4:17.

Grudem used an analogy of a drunk driving offense: Advocates of this position say,

**“Will you sit on the sidelines or get in the game? We have a Biblical responsibility to influence government for good.”**

– Dr. Wayne Grudem

born again Christians will make a bad judgment. That’s why we need laws and policemen. It’s both government and the gospel — not just one.”

**4. Christians should do evangelism, not politics.** Grudem said the Bible clearly advocates doing “good works” as a result of one’s faith in Christ. Quoting Ephesians 2:10, he says that one who accepts God’s salvation by grace alone is created for good works.

And he exhorted pastors to not shirk from preaching about political things. “If you say you don’t want to, then what (other) parts of the Bible are you not going to preach from? Are you not going to preach about the prophets when they bore testimony to civil leaders? Are you going to leave that out? The Bible talks about all areas of life, including government.”



**5. Do politics, not evangelism.** This view says that Christians should “get all the right people in office and change the laws.” But Grudem said that the No. 1 focus must be on preaching the gospel.

## Influence and persuade

Rather than those five views, Grudem advocates another — there should be a significant Christian effort to try to persuade and influence government.

He cited examples throughout history where Christians have influenced government for the good. There was

the Roman culture which outlawed killing in the gladiator battles in 404 AD under the Christian influence.

Similarly, in 1829, the outlawing of young

widows having to throw themselves onto their older husband’s funeral pyre in India. In the late 1700s, William Wilberforce’s peaceful outlawing of first the slave trade, and then slavery altogether in the British Empire. In this country, it has been the granting of property rights, voting rights and educational opportunities to all genders and races, fueled by Christian influence. Also, he pointed to Rev. Martin Luther King, Jr., who believed segregation was wrong and led the Civil Rights movement in the 1960s.

“From 374 AD to 2013, Christians have influenced government for good,” Grudem concluded.

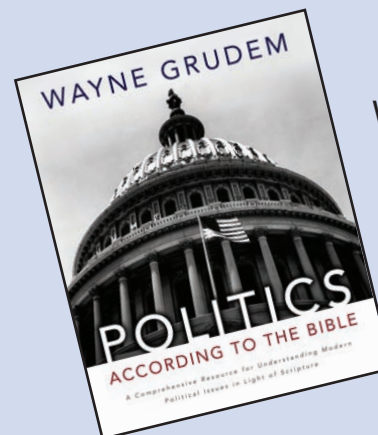
Grudem cited numerous Biblical instances when believers positively influenced secular government. There was Joseph, second in command in Egypt; Nehemiah, who was the king’s cupbearer; Daniel, a high advisor to Nebuchadnezzar; and Esther, who risked her life to go into the presence of the king. In the New Testament, there are also numerous examples of Christians not shying away from political involvement. Grudem cited John the Baptist for rebuking Herod and Paul “reasoning over a long period of time” with the Roman governor Felix.

But perhaps the most pertinent example Grudem cited is Jeremiah, who was among the Hebrews who were taken captive by Babylon. Although in exile, God told him to “seek the welfare of the city where I sent you in exile.” “That applies to us,” said Grudem. “We are exiles from heaven — we should seek the welfare of the city and state government where we live.”

**“We are exiles from heaven — we should seek the welfare of the city and state government where we live.”**

– Dr. Wayne Grudem

## Grudem’s books are still available . . .



We have a few “Politics According to the Bible” books left over from his tour. During the tour, we made them available at our cost – \$20. (They retail for \$40.) Because of shipping costs, if you would like to order one, send us a \$25 check with note “Grudem book” or call us at **(859)255-5400**.

# **YOU - LITERALLY - can make the difference!**

*Christians, in particular, must step forward. Some want to silence those who believe, but our state and nation need you now!*

Christians are caught between the proverbial rock and hard place because many in our culture want to shut us up, while Scriptures challenges us to **MAKE** the difference and to **BE** the difference. A look at our Biblical role may give some direction.

You are the salt of the earth. If you withhold your influence – your “flavor” – then you **ARE** the salt, but have lost your ability to influence or to make a contribution. Jesus went on to remind such that the salt that has lost its ability to flavor “is worth nothing than to be thrown out and trodden underfoot by men.” (See *Matthew 5:13*)

Isn't that really what is happening today? Many solid values are being trodden underfoot by those in power. It has been going on for years, but the results are just becoming more manifest so all can see. Here is a clue . . .

The other thing that has been going on for years is the **LACK** of citizens calling in and letting their voices be heard. The **LACK** of being salt. Hence, the decline in American culture.

You are called in this culture to be the light – to light the way. You are called to be salt – to flavor the direction of this state and nation. You are called to be a part of a “prophetic community” of believers that make the world different.

Similarly, we are also commanded to encourage one another. That sounds like an unspiritual effort that could be regarded as meaningless, yet we are encouraged to encourage over and over again. Here's the question: Do we **DO** it? Do we encourage? And in particular, do we encourage our legislators? (*THEY* know the answer – “*Most don't encourage.*”)

But let's change that. Here's why . . . The Latin for the word “encourage” means “to give heart.” Simply put, when you encourage someone, you give them heart to persevere, to do the right thing, to stand strong.

During any Session of the General Assembly, legislators are hammered long hours by the media, by their peers and by their constituents—almost always pushing in the wrong direction. **YOU**, on the other hand, can be a cup of fresh water to them in the midst of their grind. And like you would, they will remember that cup of kind honesty that is served to them . . . and they will do their best to act on it!

It is important for you to act. Make up your mind on the bills and issues listed in the publication (*Pages 1-3*) and other bills and issues as well, and make the toll free phone call to leave a message with a receptionist for your legislators. When you do and you see the results, you will have been a part of the solution, and will no longer be a part of the problem.

Be the salt. Be the light. Give heart to those on the battle line.



It's all about  
**YOU!**

*(You are the salt and light)*

- #1 Do you want to receive a weekly emailed **UPDATE** regarding legislation in the 2013 General Assembly?
- #2 Do you want bulletin inserts to activate your church?

**If so, call or email us:** (859)255-5400  
tffky@mis.net

## ***Make Your Calls!***

### ***It's easy! Here's how . . .***

### ***Call 1-800-372-7181***

**Call the toll-free Legislative Message Line and leave *YOUR* messages for your **REPRESENTATIVE**. It is very easy. You will not have to speak to your legislator – you simply leave a message for them with the receptionist. If you do not know who your Representative is, the receptionist can tell you. Most of the action will be in the House, so your Representative is more critical than your Senator.**

***Double* your impact by having your spouse call. *And more*, once you've shared your message, ask her to “copy” it to all five in “House Leadership.” This multiplies it even more.**

**On each bill, all you have to say is something like . . .**

***“Pass HB ???  
We need its impact.”***

**We recommend that you make one call for each bill that you weigh-in on. There is one exception: Because we believe there is a secret strategy being foisted that pushes gambling, please say the following with every call. (And leave this gambling message for your Senator as well.)**

***“Vote against ANY  
expansion of gambling”***

**Again, leave *THIS* gambling message for both your Senator and Representative since both are being pressured.**

**You can call in the evening! The Message Line is open from 7:00 am until 11:00 pm EST Mon thru Thurs. It closes at 6:00 pm on Fridays. Call **TODAY** or **TONIGHT!****

# Reshaping Kentucky . . . and her jurisprudence

Most Kentuckians have little understanding of the “Instant Racing” case that the Kentucky Supreme Court is about to hear. The implications of the final decision could not only reshape Kentucky but, more importantly, change jurisprudence in the Commonwealth for years to come—all without a single vote of elected lawmakers.

The Instant Racing case on its surface is about whether Kentucky law allows certain forms of gambling most everyone has always thought were prohibited.

There are four specific issues in the case. *First*, whether videos of old horse races, showing horses, some of which have been dead for years, count as “live” horse races. *Second*, whether individual wagering on the better’s own video lottery terminal on his own specific event can legitimately be called “pari-mutuel wagering” (betting against other people in a pool on the same event). *Third*, whether gambling can be massively expanded by regulation—by a simple stroke of a bureaucrat’s pen. *And, finally*, whether a public agency can avoid compliance with Kentucky’s open records law by claiming a “common interest” with those whom the agency is commissioned to oversee.

As of today, only two race tracks have installed the machines, and six more tracks are waiting. The crux of the case has now become an issue that has nothing to do with gambling itself, but, rather, with the integrity of the judicial system. When The Family Foundation was first granted entrance into the case in September 2010, most everyone expected the case to move forward, as cases do, with discovery – a process where questions can be asked about facts, figures and perspective – and then ultimately a trial followed by a ruling.

But the case took a sharp detour: The Family Foundation was completely denied the right of discovery before it had ever made an argument or asked a question. It was disallowed from asking any questions about whether the so-called “Instant Racing” terminals were really just camouflaged slot machines or whether they were really “pari-mutuel,” the only kind of gambling Kentucky law allows.

On June 15, 2012, the Kentucky Court of Appeals agreed that The Family Foundation had not been allowed to engage in discovery. The Appeals Court sent the case back down to Franklin Circuit Court to ensure that there

was discovery and a trial. When the Kentucky Supreme Court intercepted the case on its way back down to the trial court, the case moved instead to the state’s highest stage with no factual record whatsoever.

If the Kentucky Supreme Court rules that Instant Racing is lawful, it will have done so without so much as one judge even seeing any of the machines that are the very issue in the case. Not only that, but casino-style gambling will

a politically powerful industry—are hard to ignore. For example, why were 4 of the 10 Kentucky Racing Commission affidavits signed and dated on the day *BEFORE* the meeting they attested to actually happened? And why was there no substantive discussion in the minutes of the Racing Commission’s meeting when the regulations were approved?

The Instant Racing case could end up being the first court case in Kentucky history decided without allowing one side its due process right of discovery. And what’s worse, it would set a precedent.

Allowing a wealthy and powerful industry allied with an administration which got elected partly through campaign contributions from that same industry to institute a law that elected lawmakers never passed is bad enough. But the corruption of the law that would have allowed it to happen could prove much worse.



**Kent Ostrander** is the executive director of The Family Foundation

## Instant Racing’s Case History

**July 20, 2010** - Kentucky Racing Commission and eighth horse racing tracks “sue” one another.



**Sept. 2, 2010** - The Family Foundation is granted entrance into the case as a full party.

**Sept. 23, 2010** - The Court denies discovery to The Foundation; Case proceeds *WITHOUT* questions.

**Dec. 29, 2010** - Court rules that “Instant Racing” is within the law.

**Jan. 20, 2011** - The Foundation appeals case to Kentucky Court of Appeals.

**June 15, 2012** - Court of Appeals rules 2-1 in Foundation’s favor; orders retrial *WITH* discovery.

**July 16, 2012** - Instead of accepting retrial, gambling industry appeals to KY Supreme Court.

**Jan. 11, 2013** - KY Supreme Court accepts gambling industry’s appeal *WITHOUT* discovery.

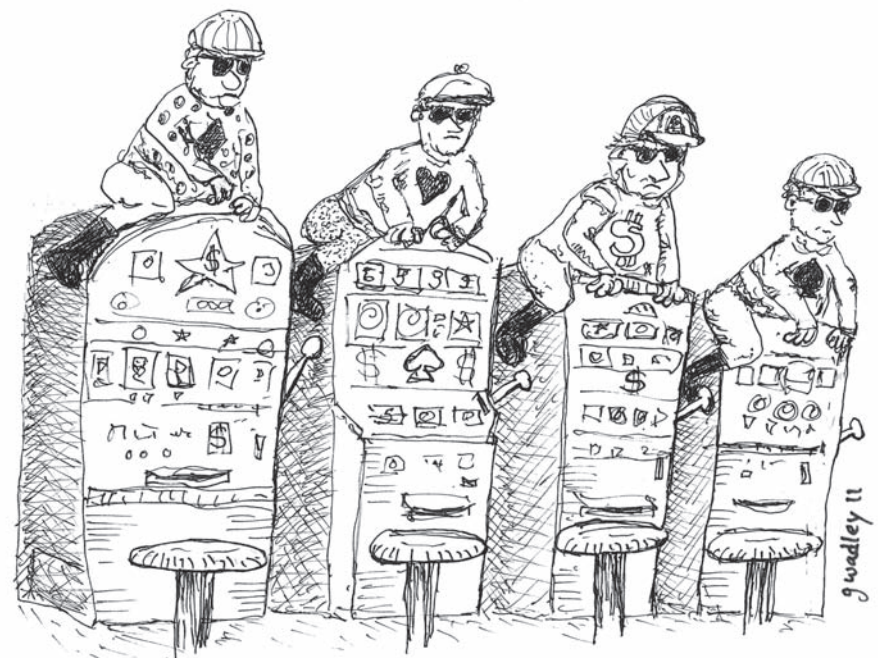
have been legalized without a single vote of a single lawmaker.

Well, I should take that back. There was one vote: a 4-to-1 vote by a legislative oversight committee early-on in the process *AGAINST* the regulation allowing the machines. Five were needed to defeat the regulation, but two legislators were mysteriously absent.

The issue at stake is perhaps the most basic legal principle: due process—a principle that ensures that wealthy, powerful interests cannot receive special treatment under the law. It is a principle so basic it is enshrined in the U. S. Constitution.

Numerous irregularities in this case—which involves

## The new live horse racing in Kentucky



*“If you think this is strange, read their court briefs.”*

Opinion: Gambling has been pushed as the solution for everything.

# Give gambling a rest

The issue of casino gambling never seems to go away. For over twelve years, various proposals have been put forth by various people, all of which have failed. But it just keeps coming back like (as my dad used to say) a bad turnip.

And the arguments change every year: We need slot machines to fund the state budget; We need slot machines to save the race tracks; We need slot machines to save the horse industry; We need slot machines to save education. Some of these arguments even work against each other.

In the 2009 Special Session, State House leaders even packed the bill with earmarks for local school

buildings and told at least one state



**Martin Cothran is the senior policy analyst for The Family Foundation**

representative that he wouldn't get any money for his district if he didn't vote for

the gambling bill.

Detractors called the bill "Slots for Tots."

This year's legislation won't do anything to resolve the

problem of lack of consistency in the

**And the arguments change every year:  
We need slot machines to fund the state budget; We need slot machines to save the race tracks; We need slot machines to save the horse industry; We need slot machines to save education . . .**

## What was **NOT** said . . .

This year, Gov. Beshear was "quiet" on gambling in his Feb. 6 State of the Commonwealth speech. Why? Well . . . last year's speech got the Governor in trouble because he made this critical statement in his Jan. 17, 2012 address:

*"That same analysis estimates that, under one scenario, expanding gaming at our tracks alone would bring in . . . \$377 million annually into the General Fund. These are conservative estimates."*

**Crunching the numbers with simple analysis:** The following calculations are based on the tax rates of the Governor's previous gambling proposal, which included a 25% tax rate for six years (and an increase to 35% in the seventh year).

At the 25% tax rate, Kentucky citizens would have to lose over **\$1.5 BILLION** every year to yield his forecast of \$377 million in tax revenue.

**Equation: 25 percent of X (some large number) equals \$377 million.**

**.25X = \$377,000,000.00**

**Answer: X = \$1.508 BILLION**

**The Bottom Line?**

**Kentucky citizens must lose BIG!**

Again, using the Governor's own figures, Kentucky citizens would have to lose \$1.508 billion every year to yield the \$377 million he wants.

**NOW everyone understands why the Governor chose NOT to talk about expanded gambling specifics this year.**

## The Kentucky *CITIZEN*

**Executive Editor**  
Kent Ostrander

**Editor**  
Sarah Roof

### Contributing Editors

Martin Cothran  
Ivan Zabilka

Greg Williams  
David Moreland

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**The Family Foundation**  
P.O. Box 911111

Lexington, KY 40591-1111

859-255-5400

e-mail: [tffky@mis.net](mailto:tffky@mis.net)

Web site: [www.kentuckyfamily.org](http://www.kentuckyfamily.org)

The Family Foundation  
P. O. Box 911111  
Lexington, KY 40591-1111

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position of slots advocates, whose reason for passing gambling legislation shifts with the political wind.

Last year, Gov. Steve Beshear proposed a bill that would legalize gambling in the state by writing local gambling monopolies for wealthy horse track owners into the state's Constitution. The argument was that it would protect the state's horse industry by allowing them to operate slot machines but not anyone else.

It didn't help his case that some of the people who would have benefitted were campaign contributors.

But this year, the governor is talking about amending the Constitution to allow for wide open gambling. What does that do to the argument that we need gambling to save the horse industry? Under such an amendment, everyone including the local gas station could have a slot parlor.

In fact, it has been reported that many in the horse industry can't support the bill. Can it possibly be because it goes against everything expanded gambling advocates have told the public before?

What argument are they going to use this time?

Despite the scattershot approach of the campaign for expanded gambling in

Kentucky, there is one thing that remains consistent, no matter what the argument of the day happens to be . . . that one consistent thing about the expanded gambling effort is the amount of money spent by the very people who claim to need more of it. Gambling and horse racing interests have spent millions of dollars trying to influence the process in order to deepen their already deep pockets.

Despite the fact that all the campaign contributions and spending on high-priced lobbyists and lawyers has gotten the expanded gambling effort nowhere, Kentuckians are still being told that casino gambling is inevitable.

It isn't.

In fact, the history of the last two decades of attempts to convince lawmakers and the voters who send them to Frankfort that they should pass slots legislation suggests the opposite. Especially in light of the fact that the state has pressing issues like tax pension reform, expanded gambling advocates need to give it a rest.